IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 311 OF 2006.

Shri Sarpurlo Narayan Dessai,
son of Narayan Dessai,
aged 66 years, resident of H.No.690,
Biumsa Cuncolim,
Salcete, Goa. ..... Petitioner.

Versus

1. Kum. Beraldin Tavares,
daughter of late Egidio Taqvares,
major in age, spinster,
resident of H. No. 1724,
Sanvorcotto, Cuncolim,
Salcete, Goa.

2. Shri Anand Angdi,
son of Shri Vishnu Angdi,
majro of age, occupation business,
residing Near Joaxinho Fernandes Bar,
Varoda, Cuncolim, Salcete, Goa.

3. Shri Maqbool Ahmed,
son of Shaikh Ahmed,
major of age, occupation business,
residing Near Joaxinho Fernandes Bar,
Varoda, Cuncolim, Salcete, Goa. .... Respondents.

Mr. Sudesh Usgaonkar, Advocate for the Petitioner.

Mr. V. Menezes, Advocate for the Respondents.

CORAM: DR. S. RADHAKRISHNAN, J.

DATE: 18th OCTOBER, 2006.

ORAL JUDGMENT.:

1. Heard the learned Counsel for the Petitioner and the learned Counsel for the Respondents.

2. Rule. Rule made returnable forthwith. By consent taken up for hearing.

3. By this petition the petitioner is challenging the Order dated 13th December, 2005 passed by the Civil Judge, Senior Division, Margao refusing to condone the delay of 20 days which is beyond the prescribed period of 90 days as provided under Order VIII Rule 1 of the Code of Civil Procedure. Now it is settled law that even beyond the period of 90 days, the Court has discretion to condone the delay provided sufficient cause is shown. Admittedly, in the above matter there is a delay of only about 20 days beyond 90 days, which is supported by a Doctor's certificate, certifying that the petitioner was under his treatment for " unstable angina " and was advised rest from 25.7.05 to 15.8.05. The learned Civil Judge S.D., at Margao had erroneously concluded that the medical certificate issued by the Doctor is not a good piece of evidence. In the larger interest of justice, the impugned Order dated 13th December, 2005 is quashed and set aside. I am informed that the written statement has already been filed. The same to be treated as if filed in time.

4. Rule is made absolute in terms of the above order.

DR. S. RADHAKRISHNAN, J.

sl.